

**Remarks**

Claims 1-11 are pending.

Claims 1-9 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,681,326.

Claims 1-3 and 11 are rejected under 35 U.S.C. §102(e) as being anticipated by Kupka et al., U.S. Patent 6434535 (Kupka).

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka in view of Heer et al., U.S. Patent No. 5,999,629 (Heer).

Claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kupka in view of Garneau et al. U.S. Patent No. 5,675,647 (Garneau).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or simply is clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., simply to avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims

has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting, no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

#### **Double Patenting Rejection**

Claims 1-9 are rejected under the judicially created doctrine of double patenting as being unpatentable over claims 1-9 of Son et al., U.S. Patent No. 6,681,326.

Applicants appreciate the Examiners' comments but submit that at this point it is premature for Applicants to file a terminal disclaimer to overcome the non-statutory double patenting rejection because the patentable subject matter has not been determined yet. Applicants may have to amend the claims of the present application during its prosecution. Accordingly, such possible amendments may remove the basis for this rejection. Applicants respectfully request to hold the rejection in abeyance until the patentable subject matter is determined.

#### **Rejection Under 35 U.S.C. §102**

Claims 1-3 and 11 are rejected under 35 U.S.C. §102(e) as being anticipated by Kupka. The rejection is traversed.

Anticipation requires the presence in a single prior art reference of each and every element of the claimed invention arranged as in the claim. Kupka does not teach or suggest each and every element of the claimed invention arranged as in claim 1.

Applicants' claim 1 recites:

“An interactive information distribution system, comprising:  
at least one programming source for storing at least one partially encrypted video program;  
a distribution center comprising a remote server, said remote server storing said at least one partially encrypted video program received from said at least one programming source, and said remote server processing said partially

encrypted video program corresponding to a subscriber requested video program to produce a fully encrypted video program; and

a subscriber-side distribution network coupled to the distribution center, for causing transmission of the fully encrypted video program to the requesting subscriber" (emphasis added).

Accordingly, as claimed, a partially encrypted video program is first stored at a programming source, then received and stored at a remote server of a distribution center, then processed at the remote center into a fully encrypted program, and finally, the fully encrypted video program is provided to a requesting subscriber. Generally, such actions may be visualized as shown in Diagram 1 below.

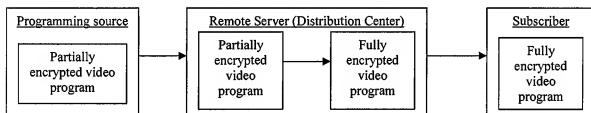


Diagram 1(Claim 1).

As shown in the diagram, the video program encryption process is spread between at least two different locations, the programming source and the distribution center.

This is entirely different from the Kupka's arrangement where electronic data (content) is transferred from a server to a client device via network infrastructure (*see e.g.*, col. 3, lines 31-35) and the encryption process is executed only at a single server. Whether the Kupka's server is to be interpreted as the Applicants' programming source, or the remote server of the distribution center, the Kupka's arrangement lacks at least one of the elements of the Applicants' claimed invention.

The Examiner equates Kupka's E-commerce server 16c to Applicants' programming source and Kupka's server 16 to Applicants' remote server located in the distribution center (*see* Office Action, pages 3-4). Such an interpretation is incorrect.

Kupka identifies the E-commerce server 16c as the server 16 (*see* Figure 1, where the E-commerce server 16c, in parenthesis, is referred to as "Server 16"). Further, it appears that Kupka uses both terms interchangeably (*see e.g.*, col. 13, lines 43 – 51; col. 16, lines 55 – 63; col. 18, line 55 – col. 19, line 7; *compare* col. 13, lines 46 – 67 with col. 15, lines 59 – 62). The only portion of the Kupka reference where Kupka clearly refers

to a server of Fig. 1 solely identified as “Server 16” is where Kupka describes that the server 16 with a gateway provide a connection for a local area network (LAN) to a network infrastructure (see Kupka, col. 8, lines 27 – 34).

However, nowhere does Kupka disclose transferring a partially encrypted program from the E-commerce server 16c to the server 16 solely identified as such for processing the partially encrypted program to create a fully encrypted program. The solely identified server 16, as described by Kupka, is merely a means connecting the LAN to the network infrastructure that would transfer from the network infrastructure via the LAN whatever data is transmitted to a client workstation 20, and to a media card 28 in particular.

Further, the Examiner points that Kupka discloses double encrypting, i.e., encrypting pre-encrypted content. However, assuming *arguendo* that encrypting pre-encrypted content anticipates Applicants’ process of encrypting partially encrypted video program, Kupka fails to teach or suggest that that an entity encrypting the pre-encrypted content has received the pre-encrypted content from another entity storing the pre-encrypted content.

Kupka suggests that “it may be preferable to double encrypt the downloaded content at step 308 by encrypting the pre-encrypted content and the data key to the pre-encrypted content...” (see Kupka, col. 19, lines 11 – 14), where step 308 is a step of method 300 shown in Fig. 7. Applicants note that because step 308 does not relate to content transmission process and occurs before any content transmission, Applicants believe that instead of step 308, Kupka intended to refer to step 318 where “Server Encrypts Data and Transmits Encrypted Data Stream.” Therefore, in the above quoted portion, i.e., col. 19, lines 11 – 14, Kupka suggests that at step 318, a Server may encrypt pre-encrypted content that is stored at the same Server.

Accordingly, if the Server is interpreted as Applicants’ remote server element, Kupka fails to disclose Applicants’ programming source element, because the Server is the only content source server employed in the method 300. Furthermore, the Server may not be interpreted as Applicants’ programming source element, because after the Server encrypts content, no further encryption is performed. Therefore, Kupka does not teach or suggest each and every one of the elements of the Applicants’ invention as arranged in

independent claim 1. Accordingly, Applicants' independent claim 1 is not anticipated by Kupka, and thus, is allowable under 35 U.S.C. §102.

Furthermore, claims 2-3 and 11 depend directly or indirectly from independent claim 1, while adding additional elements. Therefore, these dependent claims also are not anticipated by Kupka and are allowable under 35 U.S.C. §102 for at least the same reasons as discussed above in regards to independent claim 1.

Accordingly, the rejection should be withdrawn.

### **Rejection Under 35 U.S.C. §103**

Claims 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kupka in view of Heer. Claim 10 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kupka in view of Garneau. The rejections are traversed.

Each of these grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 102 given Kupka. Since the rejection under 35 U.S.C. 102 given Kupka has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that the additional references supply that which is missing from Kupka to render the independent claims anticipated, these grounds of rejection cannot be maintained.

As such, claims 4-9 are not anticipated by Krupka in view of Heer and allowable under 35 U.S.C. 103(a) and claim 10 is not anticipated by Krupka in view of Garneau under 35 U.S.C. 103(a). Accordingly, the rejection should be withdrawn.


**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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